

THE INTERIM

A Monthly Newsletter of the Montana Legislative Branch

Volume XV, No. 15 Helena, Montana August 2006

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THE INTERIM

Montana Legislative Services Division Room 110, State Capitol

PO Box 201706 Helena, MT 59620-1706 Phone: (406) 444-3064 Fax: (406) 444-3036

THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at https://www.leg.mt.gov. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

A Publication of



STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Committee reviews agency, stakeholder legislative proposals...Section 5-5-215, MCA, requires that legislative interim committees review proposed legislation of assigned state agencies. On June 22, the State Administration and Veterans' Affairs Committee reviewed legislative proposals from the Secretary of State, the Department of Administration, the Department of Military Affairs, the Public Employees' Retirement Board, and the Teachers' Retirement Board. The committee also reviewed potential legislative proposals dealing with public employee retirement systems offered by various entities that represent public employees or retirees from public employment.

The committee also reviewed 16 bill draft requests submitted thus far that address some aspect of public employees' retirement systems.

The purposes of the committee's preview of potential legislation are to: (1) satisfy the requirements of the law, i.e., sections 5-5-215 and 5-5-228, MCA; (2) allow for state agencies and legislative bill drafting staff to get an early start on drafting agency legislation in an effort to clear the way after November elections for bill drafting staff to focus on bills requested by newly elected legislators; and (3) give legislators and others an indication of necessary or desired changes in law or public policy. All told, the committee received short briefings on 57 agency or stakeholder proposals and, by authorizing legislative staff to formally initiate the bill drafting process for 55 of the proposals, the committee accomplished the overall purposes of the preview exercise.

Over the remainder of the summer and during the fall, committee staff will work with staff of state agencies to develop the proposals into draft legislation. Once the draft bills are drafted satisfactorily, the agencies will obtain a specific legislator-sponsor for each draft. All agency bills must be preintroduced by Dec. 26 to allow the 60th Legislature to consider the bills as early in the regular session as possible.

Due to adoption of Ch. 2, Sp. Laws, 2005, the committee will, over the summer and into the fall, closely scrutinize legislative proposals that address some aspect of public employee retirement. The committee will prepare a short report on each of the proposals that is introduced as a bill. The report will include an analysis of the each proposal and the committee's recommendation to adopt or reject the proposal.

All of the agencies' and stakeholders' proposals are available on the SAVA website and all bill draft requests on retirement issues are available on the Legislative Services Division's website on the LAWS link. (Use the "Subject" search option and click on "Retirement".)

The committee is scheduled to meet next on Sept. 11. Its final meeting of the interim is scheduled for Nov. 28-29. Tentative agendas for the September and November meetings will be posted to the committee's webpage as soon as they're available and will be kept updated as the meeting dates approach. For additional information, contact Dave Bohyer, committee staff, at (406) 444-3064 or dbohyer@.mt.gov.

LEGISLATIVE COUNCIL

Susan Fox named new legislative services director...The Legislative Council met June 28 to interview three finalists for executive director of the Legislative Services Division. The council selected Susan Fox to replace Lois Menzies, who recently resigned as executive director to become the administrator of the Montana Supreme Court. Fox has been a research analyst with the division since 1992. Among other responsibilities, Fox staffed the Districting and Apportionment Commission for the last two legislative reapportionment cycles and has been lead staff for the Children, Families, Health, and Human Services Interim Committee.

SEARCH FOR NEW COMMISSIONER OF POLITICAL PRACTICES

<u>Legislative leaders to recommend new commissioner</u>...Applicants are being sought for the next commissioner of political practices, the state official who oversees election and campaign finance laws.

The current commissioner, Gordon Higgins, is resigning to become deputy state auditor with the State Auditor's office.

A selection committee composed of House Speaker Gary Matthews, Senate President Jon Tester, House Republican Leader Roy Brown, and Senate Minority Leader Bob Keenan will select at least two and not more than five finalists. Those names will be submitted to the governor, who must appoint a successor within 30 days of the vacancy, which is effective August 4. The governor is not limited to selecting an appointee from the list.

The commissioner of political practices is responsible for investigating alleged violations of the election laws and, with the county attorneys, for enforcing election and campaign practice and finance laws. Qualifications for the job include being a citizen of the United States and a resident of Montana and, on the date of appointment, a registered voter in Montana. The appointee will serve the remaining 4 years, 4 months of the 6-year term. The job pays \$51,990 to \$54,070 annually.

Letters of interest will be accepted through Aug. 4, 2006. Interested individuals should send a letter and a resume c/o Candidate Selection Committee, Legislative Services Division, PO Box 201706, Helena, MT 59620.

The selection committee will meet by conference call on Aug. 9, 2006, at 10 a.m. The conference call will be conducted in Room 137 of the state Capitol. The meeting is open to the public.

For more information, contact the Montana Legislative Services Division, at (406) 444-3064 or visit the legislative branch website at http://leg.state.mt.us under Research/Information.

LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met June 20 in Helena. Committee members include Reps. Dee Brown, Hal Jacobson, Christine Kaufmann, Scott Mendenhall, John Musgrove, chair, and Janna Taylor; and Sens Joe Balyeat, vice chair, John Brueggeman, Jim Elliott, Dan Harrington, Lynda Moss, and Corey Stapleton. Legislative Audit Division staff presented the following reports:

Financial Audit

Montana Water Pollution Control and Drinking Water State Revolving Fund Programs (06-29)...The Legislative Audit Division performed a financial audit of the Montana Water Pollution Control and Drinking Water State Revolving Fund Programs for the fiscal year ended June 30, 2005. This report contains the audited financial statements and accompanying notes for fiscal year 2004-05. LAD issued an unqualified opinion on the financial statements. This opinion means the reader may rely on the financial information presented.

Performance Audits

The Collection and Use of Graduate and Dropout Data 06P-11...This performance audit provides the Legislature information about the collection and use of graduate and dropout data. To ensure data is consistent among schools for reporting and decision-making, this report makes recommendations for implementing controls as well as a means to utilize the data.

Improving In-Home Services Contract Monitoring 04P-12...The Child and Family Services Division within the Department of Public Health and Human Services provides in-home services to children and families to mitigate actual or potential risks of child abuse and neglect. The division relies upon contractors to provide most in-home services. This report includes recommendations for improving the division's contract management practices for assuring contract services meet division program requirements.

Improving Taxpayer Compliance in Montana Through Audit Efforts 06P-10...This audit report concludes taxpayer noncompliance for individual income and corporate license taxes results in underpaid taxes in Montana. In order to improve taxpayer compliance, the Department of Revenue needs to develop a plan of action that includes:

- strategic planning to focus efforts;
- performance measures to guide actions;
- Montana specific tax gap analysis; and
- strengthening the audit function.

<u>The Northern Rockies Consortium for Space</u> Privatization at The University of Montana 06SP-034...This report contains findings and recommendations developed as a result of a performance audit of the activities of the Northern Rockies Consortium for Space Privatization at the University of Montana. Findings and recommendations address improvements in the university's internal controls over sponsored research programs and related technology transfer activities.

<u>Examination of the Delivery of E-Government Services 06P-08</u>...This report provides findings and recommendations related to Montana's e-Government services. Areas for e-Government services improvement include:

- management controls could be enhanced;
- a formal project risk management plan is needed;
- require agencies to report detailed analysis of e-Government services impacts on agency resources to the Legislature; and
- a business case analysis is needed regarding the state's options for providing future e-Government services.

Information System Audits

<u>Data Center Review 06DP-05</u>...This report contains five multi-part recommendations:

- implementing an overall process to ensure threats to the data center are addressed;
- implementing safeguards over physical security to deter unauthorized access;
- strengthening safeguards to mitigate water and earthquake-related threats;
- coordinating disaster recovery efforts; and
- defining responsibilities for data center security and coordination.

Montana State University – Electronic Research Data Security 06DP-01...This report addresses controls over the Montana State University's electronic research data storage infrastructure. It contains one recommendation to formally designate responsibility for research data security and implement and enforce a policy to define research data security requirements.

Next meeting: The next Legislative Audit Committee meeting has been tentatively scheduled for October 2006.

REVENUE AND TRANSPORTATION COMMITTEE

<u>Federal legislation could affect Montana's tax system...</u>The Revenue and Transportation Interim Committee met June 29 and 30 in Helena. Dan Bucks, director, Department of Revenue, reported on proposed federal legislation that could affect certain taxes in Montana. H.R. 5252, or the Cell Phone Moratorium Act of 2006, could affect the state's excise tax and property taxation of mobile telecommunications services.

H.R. 1369, introduced early last year in the House of Representatives would prevent states from taxing interstate pipelines regulated by the Federal Energy Regulatory Commission differently than other commercial and industrial property. The bill would provide similar protection to natural gas pipelines as property class twelve railroad and airline property. The bill, which was put on hold following Hurricane Katrina, was sent to the House floor by the House Judiciary Committee on July 12. Bucks said local government property tax revenue could fall by \$18.5 million and state taxes (K-12 equalization and university levies) could fall by about \$6 million.

The House Judiciary Committee also sent to the House floor H.R. 1956. This bill would establish a "bright-line physical nexus requirement" that would restrict a state's ability to tax the commercial activities of multistate corporations.

<u>Property reappraisal update...</u>The 1972 state constitution requires the Department of Revenue to value all taxable property for property tax purposes. Most classes of property are revalued annually, but under current law, property class three agricultural land, property class four residential and commercial land and improvements, and property class 10 forest land are reappraised every six years. These types of properties must be revalued by January 2009. The Department reported on how it accomplishes the revaluation of property, from discovery of property to data collection, analysis, and valuation.

The Department revalues agricultural land and forest land based on the productivity of land. An agricultural advisory committee provides recommendations in the revaluation of agricultural land. The department is working on reclassifying agricultural land, enhancing the efficiency of revaluation, and ensuring the process complies with state law.

Committee reviews property tax implications of revising taxation of oil and natural gas property...At its May 2 meeting, the committee reviewed a proposal to locally assess the production property of oil and gas producers that are centrally assessed. At the June meeting, committee staff presented a report that evaluated the local and state property tax implications of the proposal. At this time, the proposal would apply only to Encana Energy Resources, Inc., Fidelity Exploration and Production Company, and Omimex Canada, Ltd. These three companies are primarily natural gas producers. Eleven counties would be affected by the proposal. Overall, local property taxes owed by these companies could decrease by \$811,000. The effect on individual counties and school districts varies by the relative

importance of the production property in the taxing jurisdiction's tax base and by mill levies. The Committee voted not to take action on the proposal.

PSC Commissioner Jergeson reports oil price task force...The governors in several western states and the premier of Alberta have appointed members to the Oil Price Differential Task Force, created by the Interstate Oil and Gas Compact Commission. The task force is looking at the reasons why producers in the region are receiving lower prices at the well-head. Public Service Commissioner Greg Jergeson, appointed to the task force by Gov. Brian Schweitzer, gave an update on the activities of the task force. It will be looking at the causes of the price differentials related to production and to pipeline and refinery capacity. The task force will make recommendations to alleviate the price differentials. A final report will be presented at the IOGCC's annual meeting in October.

Tax collections on the rise...Terry Johnson, principal fiscal analyst with the Legislative Fiscal Division, told the committee that the ending fund balance for the state general fund could be as high as \$547.4 million at the end of 2007 biennium. This amount is about is about \$38 million higher than was reported to the Legislative Finance Committee earlier in the month. Higher than expected collections from individual income taxes, corporation license taxes, and oil and gas production taxes have increased the state's coffers. As of June 28, corporation license taxes collections stood at \$153.7 million. This is \$54 million more than the previous high of \$103.7 collected in fiscal year 2001.

Revenue and Transportation Committee wants to save its marriage...At its June 13 meeting, the Education and Local Government Interim Committee discussed the possibility of ending the marriage of education and local government by creating a separate education interim committee and combining transportation with local government (see the July 2006 issue of *The Interim* for prior coverage). The Revenue and Transportation Committee concluded it would be a bad idea for this committee to spilt up.

Other committee action...The committee approved the following bill drafts to:

- allow the Revenue and Transportation Committee to revise revenue estimates during a special session;
- clarify the distribution of revenue to local governments from fee in lieu of tax on heavy vehicles; and
- clarify the allocation of certain drivers license fees.

Penultimate meeting in September...The committee is scheduled to meet Sept. 8 in Room 137 of the Capitol. Some agenda items will include an update of FY 2006

revenue collections, review of legislative proposals from the Department of Revenue and Department of Transportation, consideration of bill drafts to clarify the Legislative Fiscal Division and the governor's budget office access to tax information for revenue estimating purposes.

For more information about the Revenue and Transportation Committee, contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov.

ENVIRONMENTAL QUALITY COUNCIL

The subcommittees of the Environmental Quality Council wrapped up most of their work at July meetings.

<u>Subcommittees review public comment, proposed legislation...EQC subcommittees reviewed public comments on various draft reports as well as proposed legislation.</u> Some changes were made before the subcommittees approved the reports, which will be submitted to the full EQC for approval at its meeting Sept. 11-12.

Subcommittee to meet on wolf management...The EQC voted to hold a special meeting of the Agency Oversight subcommittee in Ennis on Aug. 11. The topic of the meeting is the management of wolves in the area. The public will be invited to attend and offer comments. Details of the meeting will be made available on the EQC web site.

Report summaries...Following are brief summaries of the reports available for comment.

- State Superfund Study: This study suggests improvements to the state superfund process stemming from concerns that state sites seriously affect communities and that the lack of timely superfund site cleanup exacerbates those community impacts.
- Financing the Administration of Montana's Trust Lands: The study examines the legality of allowing the Department of Natural Resources and Conservation, which manages state trust lands mostly for the benefit of education, to use some earnings to pay administrative costs. Included is draft legislation related to Morrill Act Trust Lands and the use of revenues to fund administrative costs. The subcommittee chose not to move forward with an account consolidation bill that it has been considering throughout the interim.
- Water Policy Issues: The Environmental Quality Council provides oversight and guidance on water policy. Interim work included tracking the St. Mary's Canal Project, studying the interaction between surface water and ground water, and updating the water adjudication chronology.

- Contract Timber Harvesting: A white paper assesses the feasibility of implementing contract logging as an additional marketing approach to selling timber on state trust lands. Included is proposed legislation allowing the use of contract timber harvest and providing guidelines for the Department of Natural Resources and Conservation in implementing the program
- Wildland Fire Policy: A group of wildland fire professionals and others with an interest in fire policy reviewed current laws, considered a state fire policy, and discussed ways to deal with residential development in the wildland-urban interface. Included in the report is draft legislation.
- Split Estates and Coal Bed Methane Issues: A panel of lawmakers and citizens studied split estates-when one party owns the surface and another owns the mineral rights--as well as issues related to coal bed methane development. Possible changes to law include lengthening from 10 days to 20 days the notice mineral developers give to surface owners. Also proposed is a requirement that surface owners be provided information on split estates and mineral development through dissemination of a brochure, a draft of which also is included in the report.

Reports on the Internet...Updated copies of the reports and other materials will be posted to the EQC webpage prior to the September meeting in Helena. Since most of the reports are quite lengthy, it is suggested they be viewed or printed from the web: http://leg.state.mt.us/css/lepo/2005_2006. For more information about the Environmental Quality Council, contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

ECONOMIC AFFAIRS COMMITTEE

Security freeze still a hot topic....The Economic Affairs Committee moved forward at its July 14 meeting by deciding on components of two bill drafts having to do with identity theft while sending to a working group three related bills, one of which deals with government's collection of social security numbers. Action on one bill addressed issues specifically intended to help victims of identity theft, including requirements for law enforcement to take complaints regardless of where an identity theft crime may have occurred.

The committee took action on a security freeze on consumer credit reports bill draft. The bill would allow consumers to restrict access to their credit reports by unauthorized persons. The committee decided to reduce the fee that a consumer reporting agency may charge for an initial freeze to \$3 instead of the previously agreed-to amount of up to \$10 for each of the three major consumer reporting bureaus for the initial freeze or a temporary or

permanent lift of the freeze.

Not discussed by the committee before being sent to a working group for further review were three bills affecting government:

- restrictions on government collection of social security numbers unless state or federal law requires collection;
- restrictions on public officials transportation of computer hardware or software out of public buildings without authorization if the computer hardware or software contained unencrypted personal identifying information; and
- provisions requiring government to notify individuals if a computer security breach occurs that results in disclosure of the individuals' personal identifying information.

The working group will meet in early August. The meeting date and time will be announced on the committee webpage.

Return of the uninsured motorist...Legislators in previous sessions have tried to figure out how to decrease the number of drivers on Montana's roads who have no proof of financial responsibility in case of an accident. Current estimates are that 9 percent to 12 percent of the drivers have no proof of financial responsibility, which in addition to motor vehicle liability insurance includes a bond on file with the Department of Justice. In contrast, 5 percent to 6 percent of drivers in New York state are said to be uninsured, while the national average is 14 percent. Representatives of the insurance industry and of database or online systems that help states monitor motorists for lack of insurance told the committee how new online verification systems are intended to work and explained associated problems, such as enforcement. Enforcement is problematic because, among other things, verification depends on traffic stops or accidents and because fines may be lower than the cost of insurance. The committee expressed interest in the subject but did not ask for a committee bill draft. On another motorist-related agenda item, the committee decided against requesting a committee bill dealing with the definition of a motor vehicle dealer as a franchisee.

Subcommittee to review sunrise and other licensing board bills ... A subcommittee assigned to study professional and occupational licensing boards will meet Aug. 1 from 4 to 6 p.m. in Room 102 of the state Capitol to hammer out final recommendations on a sunrise bill that addresses the creation of new boards as well as the review of existing boards. The subcommittee hopes to provide guidelines that address the financial concerns of boards and potential licensees and focus the rationale for creating or retaining boards on the public's need for a board to protect health, safety, or welfare.

A miscellaneous bill draft also is on the agenda. The

draft incorporates some suggestions from the Department of Labor and Industry and some from comments made during a working group involved in the Senate Joint Resolution 35 review of licensing boards. The committee decided to remove a provision from the miscellaneous bill draft that would combine the Board of Hearing Aid Dispensers with the Board of Medical Examiners.

Final meeting Sept. 11-12...A nationally recognized speaker, Dr. Henry Simmons of the National Coalition for Health Care, will present information to the committee on Sept. 11 about various ways to address the rising cost of health care and the number of people without health insurance. Other legislators and members of the public interested in national health care issues are invited to attend Dr. Simmons' presentation, which will start at 9 a.m. The committee will meet in Room 102 of the state Capitol on Sept. 11 and 12.

Other final activities for the interim will include:

- an update on the Rail Services Competition Council's meetings;
- a report and recommendations from the Board of Private Alternative Adolescent Residential or Outdoor Programs;
- review of proposed legislation from the Department of Commerce, the Department of Labor and Industry, the Department of Livestock, the State Auditor's Office, the Montana State Fund, the Department of Agriculture, and, possibly, the Governor's Office of Economic Development; and
- recommendations, including prospective legislation, related to the committee's studies on identity theft and professional and occupational licensing boards.

For other agenda items, visit the committee webpage or contact Pat Murdo, committee staff, at (406) 444-3594 or pmurdo@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

The costs of Montana wildfires...Summer is here and the fire season has started. As of July 17, ten large fires had burned over 237,000 acres in central and eastern Montana. The near-term outlook is for dry fuels, hot temperatures, very low humidity, periodic gusty winds, and isolated dry lightning. As the number of fires increases, so too will the costs.

During the fire season, the Department of Natural Resources and Conservation needs access to cash to manage resources on the ground. Because funding for fire suppression is not appropriated in HB 2, the general appropriations act, the department uses the current fiscal

year general fund appropriation authority in the Forestry Division and the Water Resources Division. When that is not enough, the agency requests a supplemental appropriation to move authority from the second year of the biennium to the first year of the biennium. Ultimately, the DNRC appropriation authority spent on fires is restored when the supplemental appropriations bill is approved in the next regular legislative session. Before the supplemental appropriation is approved, DNRC has often faced significant challenges in covering fire suppression costs and continuing to operate its other programs. Ultimately, the fire suppression costs, paid from the general fund, reduce the anticipated ending fund balance reserve, since there was no appropriation.

Here is the situation we are in now. In order to cover the costs of FY 2006, supplemental appropriations (transferring spending authority from FY 2007 to FY 2006) were requested and approved. In doing this, the bills get paid, but DNRC consequently starts FY 2007 with approximately \$5.0 million less in general fund spending authority than originally provided by the Legislature for other programs and purposes. DNRC must carefully manage its general fund authority to cover costs until January 2007 when the supplemental appropriation is considered by the Legislature.

Fire suppression activities in eastern Montana require cash and the authority to spend that cash. On July 11, Gov. Brian Schweitzer declared a state of emergency based on fire conditions. This provides access to the governor's emergency fund and statutory appropriation authority to cover DNRC's suppression costs during the subsequent twenty days. As of July 16, the FY 2007 fire suppression costs totaled \$ 5.1 million, of which \$4.8 million is the responsibility of the state and \$0.3 million is charged to other governmental entities. Of the state's responsibility, \$4 million will be paid from the governor's emergency fund. This leaves about \$11 million remaining in the emergency fund, which is allowed a statutory maximum of \$16 million general fund for the biennium. Whether this funding becomes necessary depends upon fire activity and the availability of federal funding.

In severe fire seasons, the Federal Emergency Management Agency has provided cash assistance to the state for suppression activities. If FEMA provides assistance, 75 percent of qualifying costs are covered. FEMA uses four criteria to evaluate the threat posed by a fire or fire complex:

- the threat to lives and improved property, including the threat to critical facilities and infrastructure or critical watershed areas;
- the availability of state and local firefighting resources;
- high fire danger conditions, as indicated by nationally accepted indices such as the National Fire Danger Ratings System; and
- the potential of major economic impact.

As of this writing, FEMA has approved assistance for the Saunders fire (near Columbus) for a 48-hour period, and DNRC is in the process of requesting assistance based on severity.

The fire season is routine in Montana. Historically, the state is responsible for an average of \$7 million each year, based on the most recent 7 years, for fire suppression. Fire costs this year could quickly exceed the average. The Legislative Fiscal Division receives weekly fire cost updates and tracks funding requirements.

If you have questions about fire funding, contact Barbara Smith at basmith@mt.gov or (406) 444-5347.

MONTANA LEGISLATIVE REFERENCE CENTER

Looking for information from that other branch of government?*...Most of you already know that the main function of the Montana executive branch is to implement and enforce the laws passed by the Legislature. The executive branch is made up of various administrative agencies, each with a different area of specialization, and the governor and his cabinet. The executive branch "fleshes out" the statutes by promulgating detailed, specific rules and regulations that tell people how to comply with the law. Many administrative agencies can also determine whether citizens are complying with their rules and regulations. They can issue and revoke licenses and fine citizens who do not comply with the law. The official website of the executive branch is www.mt.gov.

Administrative Rules of Montana....The Administrative Rules of Montana is a collection of rules adopted by state agencies, arranged by executive department. The online version is updated on Sept. 30 of each year. To determine whether a rule has been amended since then, check the Montana Administrative Register. http://arm.sos.state.mt.us/

Montana Administrative Register...The Montana Administrative Register is published every two weeks and contains notices of proposed administrative rules and notices of final rules and amendments to rules created by various state agencies. The Administrative Register also contains attorney general opinions. The online version contains rules published since 2001. http://sos.mt.gov/ARM/Register/index.asp

<u>Executive orders of the governor...</u>An executive order is a legally binding action or statement by the governor as the chief executive of the state of Montana. http://governor.mt.gov/eo/2005.asp

Attorney general opinions...The Legislature or either house of the Legislature, a state officer, a state board, a state commission, a county attorney, a board of county

commissioners, or a city attorney may request the attorney general to give a written opinion about any legal question related to official duties. The opinion has the effect of law unless overturned by a state district court or the Montana Supreme Court. The attorney general does not issue decisions at the request of private citizens. http://doj.state.mt.us/resources/opinions.asp

Attorney general letters of advice...In response to a request for a formal opinion, the attorney general may decide to issue a letter of advice instead. A letter of advice does not have the force of law and is advisory only. This site

provides copies of letters of advice dating back to 2002. http://doj.state.mt.us/resources/opinions.asp#lettersadvice

Commissioner of political practices decisions...The commissioner of political practices investigates complaints regarding campaign finance practices, lobbying disclosures, and ethical violations by legislators, public officers, and state employees. This site provides copies of decisions dating back to 2000. http://politicalpractices.mt.gov/2recent decisions/

Human Rights Commission, Human Rights Bureau Decisions...The Human Rights Bureau investigates complaints of discrimination and issues decisions in these cases. The Human Rights Commission hears appeals of decisions of the bureau. This site provides copies of decisions from both agencies dating back to 1996, in alphabetical order. http://erd.dli.mt.gov/humanright/decisions.asp

State Tax Appeal Board decisions...The State Tax Appeal Board hears appeals from decisions of the Department of Revenue regarding business licenses, property assessments, taxes and penalties, and decisions of county tax appeal boards. This site provides copies of decisions of the board dating back to 1996, arranged by topic. http://stab.mt.gov/decisions/decisions.asp

Workers' Compensation Court Decisions...The Workers' Compensation Court decides cases involving workers' compensation and occupational disease claims, among others. This site provides copies of decisions of the Court dating back to 1993, sorted by case number, year, and name. http://wcc.dli.mt.gov/cases.asp

<u>Links to Montana administrative agency websites...</u> http://mt.gov/govt/agencylisting.asp

If you need any assistance with locating information relating to, or about, the executive branch, please contact Legislative Librarian, Lisa Mecklenberg Jackson, at Ljackson@mt.gov or 444-2957.

*This information compiled by the State Law Library of Montana and is available at http://courts.mt.gov/library/

mt_law.asp#executive.

ENERGY AND TELECOMMUNICATIONS COMMITTEE

<u>Last meeting scheduled for September...</u>The Energy and Telecommunications Interim Committee will hold its final meeting of the interim on Sept. 7 in Room 137 of the Capitol. The ETIC will discuss and vote to either approve, amend, or reject drafts of the following committee study and bills:

- SJR 36: White paper on distributed energy generation
- LC0038: State transmission authority
- LC0039 (formerly LC4144): Revision of telecommunication laws
- LC0188: Wireless enhanced 9-1-1
- LC0089: CO2 equipment property tax exemption
- LC0090: CO2 common carrier status
- LC0091: Tax credit for renewable energy bonds
- LC0170 (formerly LC0037): Revise electric industry restructuring laws

As always, the meeting will include time for a presentation by the Public Service Commission as well as a public comment period. Other topics for the meeting and possible speakers have not yet been confirmed. For more information, contact Casey Barrs, committee staff, at (406) 444-3957 or cbarrs@mt.gov.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Final meeting rescheduled--again...The final meeting of the Children and Families Interim Committee is planned for Sept. 12 and 13 in Room 137 of state Capitol. (The committee is not meeting on Aug. 18 or Sept. 14 and 15 as had been previously scheduled.) Draft legislation, meeting materials, and an agenda will be posted to the committee's webpage by late August. The committee is asking for public comment on the draft legislation.

SJR 37 study of child protective services...The committee is considering four bill drafts related to grandparents raising grandchildren. Three of the drafts would provide grandparents a legal process by which they could, respectively, enroll their grandchildren in school, give consent for medical care, and have limited standing as

caretaker relatives in certain cases when they are responsible for child relatives. A fourth draft would clarify statutes on grandparent and grandchild contact based on the Montana Supreme Court decision in Polasek.

The committee will also consider a bill draft to establish a Child Protective Services Statute Revision Commission. The new commission, attached to the Department of Justice, would review child protective services statutes focusing on court-related and legal processes and procedures and on how these processes and procedures affect the Department of Public Health and Human Services.

SJR 41 study of mental health crisis...The committee assigned members to work on the following for the final meeting: insurance parity for mental illness and chemical dependency; secure crisis stabilization; suicide prevention; and transportation of the mentally ill. Other areas that the committee is working on include the certification of mental health professionals and psychologists and draft legislation to include "gravely disabled" in the definition of an emergency situation. Legislative proposals will be available by late August for review and comment by interested persons.

Committee to review agency legislation...DPHHS will present its legislative package on Sept. 13. The committee will decide on which proposals to request on behalf of the agency. The committee invites interested persons to present a brief overview of any proposals for next session.

Committee to prepare statement of priorities...The committee is expected to prepare of statement of priorities to serve as a guide for the next Legislature as it considers proposals related to children and families, health and health care, and human services.

Ways to participate...Anyone wishing to participate is invited to contact Susan Byorth Fox at (406) 444-3066. Persons wishing to be on the interested persons list may subscribe for electronic notices at the committee website or contact Fong Hom at (406) 444-0502 to be placed on the hard copy mailing list.

<u>Using limited health dollars wisely...</u>Sen. John Cobb, Sen. Greg Lind, Rep. Bill Jones, Rep. Theresa Henry, Margaret Bullock and Gail Briese-Zimmer from DPHHS, Erin McGowan Fincham from the State Auditor's Office, Lois Steinbeck, senior fiscal analyst, and Susan Byorth Fox, research analyst, recently attended a conference on health issues sponsored by the National Conference of State Legislatures, the National Governor's Association, and others.

The state team set a goal to promote a prevention health agenda in the state with an emphasis on intervention that targets risk factors in the earliest stages of life. This would include developing and promoting a plan that would provide comprehensive care for families from pregnancy through age 2. Legislative staff is working with DPHHS on collecting information about existing programs and health

indicators in order to identify gaps for consideration by legislators.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

Committee meets in August...The Education and Local Government Interim Committee and its two subcommittees, Local Government and Postsecondary Education Policy and Budget, will meet on Aug. 17 and 18 in Rooms 102 and 172 of the state Capitol. The subcommittees are scheduled to meet during the morning both days, with the full committee meeting during the afternoon both days. These will be the final meetings of the interim for the subcommittees and for ELG.

The Local Government subcommittee will make final recommendations regarding the SJR 11 study of subdivision and land use laws, the portions of HJR 10 that the Environmental Quality Council referred to the subcommittee

(authority of fire chiefs and the wildland-urban interface), and proposals for statewide programs to provide technical assistance to local planners.

ELG's agenda includes bill draft proposals from the Office of Public Instruction and the Historical Society, as well as an introduction of the new Historical Society Director, Richard Sims. The committee will also hear about early childhood education, school readiness, and school medication. Representatives of the Montana Quality Education Coalition will discuss MQEC's plans for the next several months and a representative of the attorney general's office will address that office's response to MQEC's recent district court filing.

For more information about ELG or the Local Government subcommittee, contact Leanne Kurtz, committee staff, at 444-3593 or lekurtz@mt.gov. For more information about PEPB, contact Alan Peura, PEPB staff, at 444-5387 or apeura@mt.gov.

THE BACK PAGE

WHAT TO MAKE OF GLOBAL WARMING?

By Jeff Martin Legislative Research Analyst

THE INSPIRATION

One day during the Wimbledon fortnight, I was marking time between the changeover from ESPN to NBC by doing a little channel surfing. I happened upon a C-SPAN rebroadcast of a hurricane preparedness conference in Florida. Colorado State University meteorologists Bill Gray and Phil Klotzbach were presenting their 2006 hurricane season forecast. Although they predict that there will be 17 named tropical storms and an above-average number of hurricanes this season, Gray, professor emeritus, questioned whether the recent upsurge in the frequency and intensity of hurricanes is related to global warming. He thinks that the upsurge is more related to the cyclical nature of hurricanes. Klotzbach presented the forecast. He is some sort of whiz-kid who graduated from college at 18 years of age and has been associated with Gray for about 5 years. His presentation included charts and graphs, but only the audience was privy to what they contained. Unlike our own HCTV coverage of legislative interim committee meetings, C-SPAN cameras focus on the speaker rather than on the graphics.

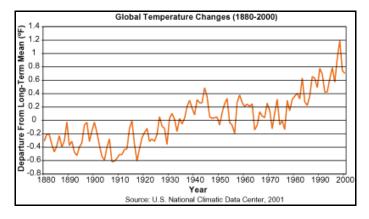
As I was watching, it occurred to me that I have but a rudimentary understanding of the global warming controversy. I missed the recent Time magazine article on global warming, and I haven't seen the movie "An Inconvenient Truth" or read Michael Crichton's novel "State of Fear". The first two are to persuade the public of the dire consequences of global warming, while the third attempts to cast doubt on the theory. Despite the risks of delving into a controversial subject about which I know very little, I thought it might be kind of interesting to review some of the science and politics of global warming. With summer sizzling, the subject seems topical.

This article presents reported trends in global warming, provides an overview of a report that discusses climatic changes associated with human-induced global warming, and provides an overview of a global warming primer that takes a different view of global warming. The article concludes with an admonition.

THE BACKGROUND

¹I use the qualifier "kind of" because what I really wanted to do was write a followup to a previous Back Page article in which I ranted about the deterioration of the English language. But start carping on something too often, you get a reputation as some sort of fanatic. Had I done a followup, I would have railed against, among other things, the misappropriation of "oxymoron" (I am a reformed misappropriator) and the misuse of "begging the question".

Measurements of changes in global average surface temperatures (near surface air temperature over land and sea surface temperature) show that global average temperatures generally increased between 1910 and 1945, generally fell between 1945 and 1976 (1973 was my first experience with Montana's sustained winter temperatures of well below zero), and have generally increased since 1976 (see chart below). According to the Intergovernmental Panel on Climate Change (IPCC), the global average temperature increased by about 0. 6° Celsius (about 1° Fahrenheit) during the 20th century, with 1998 being the warmest year.² More recent measurements of surface temperatures by the Goddard Institute for Space Studies indicate that 2005 is in a "dead heat" with 1998. The global temperature in 2005 is more notable than 1998 because the temperature in 2005 was not influenced by El Nino.5 The authors of the Goddard report note that global warming increased slowly, with large variations, up to 1975, but has since been increasing by about 0.2° C per decade since then. The graph below, obtained from a U.S. Environmental Protection Agency webpage (see footnote 6), shows global temperature changes since 1880 through 2000.



Global warming occurs when less energy leaves the planet than comes in. Scientists have linked global warming to an increase in greenhouse gases generated primarily by human (anthropogenic) activities. Atmospheric greenhouse gases

²"Summary for Policymakers" in <u>Climate Change 2001: The Scientific Basis</u>, Intergovernmental Panel on Climate Change, 2001. Retrieved July 12, 2006, from http://www.grida.no/climate/ipcc_tar/wg1/index.htm. July 12.

 $^{^{3}\}mbox{I}$ can't help but wonder whether the phrase "dead heat" was used intentionally.

⁴Goddard Institute for Space Studies, GISS Surface Temperature Analysis. Retrieved July 12, 2006, from http://data.giss.nasa.gov/gistemp/2005.

⁵El Nino is a climate phenomenon that occurs every 5 to 7 years during the Christmas season. The phenomenon involves seasonal changes in the direction of Pacific winds and abnormally warm surface ocean temperatures. While normally affecting only the Pacific region, El Nino can also affect weather patterns over other parts of the Earth. See Earth on Fire glossary at http://www.cet.edu/ete/modules/carbon/ efglossary.html.

include water vapor, carbon dioxide, methane, and nitrous oxide. The workings of greenhouse gases is straightforward. The sun heats the earth and heat is re-emitted from earth. Short-wave ultraviolet radiation passes through the atmosphere into space, while long-wave infrared radiation is trapped by greenhouse gases. Retaining this heat has the same effect as a greenhouse, hence the phrase "greenhouse effect." Without greenhouse gases, most of the sun's heat would be lost, and earth's temperature would be much too chilly to sustain life; Earth would be more like Mars. If there were too much atmospheric absorption of radiant heat, Earth would be more like Venus.

The earth's atmosphere consists of 78 percent nitrogen, 21 percent oxygen, 0.03 percent carbon dioxide, and much smaller amounts of other gases. Natural releases of carbon dioxide from plant respiration and the decomposition of organic matter far exceed those from human activities. Carbon is reabsorbed by plants for photosynthesis and by the oceans, thus keeping a balance through the carbon cycle.

The EPA reports that since the beginning of the industrial revolution, atmospheric concentrations of carbon dioxide have increased by 30 percent, methane concentrations have more than doubled, and concentrations of nitrous oxide have increased by about 15 percent. According to the EPA, many scientists have concluded that these concentrations, particularly for carbon dioxide, have increased as a result of fossil fuel combustion and other human activities, such as deforestation and certain agricultural activities. The EPA also says that if emissions are not curtailed, "carbon dioxide concentrations are projected to be 30-150% higher than today's levels" by 2100.

Greenhouse gases vary on the amount of radiant heat they can absorb. Methane absorbs more than 21 times the amount of heat per molecule as carbon dioxide, while nitrous oxide absorbs 270 times more heat than carbon dioxide.⁸

THE DANGER

In a paper⁹ presented at the University of Iowa in 2004, James Hansen discusses global warming and climate

change. Climate, like the weather, can fluctuate naturally, or it can fluctuate with what climatologists refer to as forcings (or feedbacks). Forcings are mechanisms that alter the global energy balance. Positive forcings (such an increase in the sun's brightness or in increase in greenhouse gases) tend to increase temperature, while negative forcings (such as a decrease in the sun's brightness or an increase in aerosols, except black soot, which absorbs solar heat) can decrease temperature. Human activities contribute to both positive and negative forcings. Negative forcings reflect the suns rays and act as condensation nuclei for cloud drops, causing clouds to reflect more sunlight. Forcings are measured in watts per square meter. Volcanos can also cause irregular negative forcings. Based on measurements since 1850, Hansen says that human-made greenhouse gases have accounted for about 3 watts, black soot for 0.8 watts, and the sun for 0.4 watts of positive forcings. Conversely, reflective human-made aerosols have accounted for -1.4 watts, forced cloud changes for -1 watts, and land cover changes for -0.2 watts of negative forcings.

The excess of positive forcings over negative forcings indicates an energy imbalance; that is, more heat is coming than is leaving. The energy imbalance is restored when oceans warm, but that may take several decades. However, as greenhouse gases accumulate, there is a continuous energy imbalance. The Earth's climate has not fully responded to the positive forcings because of thermal inertia of the oceans and the offsetting cooling caused by aerosols. According to Hansen, aerosols have reduced global warming by at least 50% from what it otherwise would be. However, Hansen sees that as a Faustian bargain because of the deleterious effects of aerosol pollution caused by human activities.

Hansen concludes that one of the major effects of global warming is on the ice sheets and thus on sea level. The amount of summer melting on Greenland, for example, has increased significantly since 1992. He says that a rise in sea level of two meters would be enough to inundate much of Bangladesh, the Nile Delta, and parts of Louisiana and Florida. Global warming would also have implications for precipitation. Although regional variations are difficult to forecast, Hansen believes that the Southwest United States and the Mediterranean, and the Middle East would become drier, while the eastern United States would become wetter.

Global warming may have implications for Montana. The Scripps Institute of Oceanography at the University of California led a study on wildfire activity in recent decades. During the period 1987-2003, rising temperatures and early snowmelt in the western United States have increased the fire season by 78 days and the average duration of fires from

⁶U.S. Environmental Protection Agency, "Global Warming-Climate. Retrieved July 6, 2006, from http://yosemite.epa.gov/oar/global warming.nsf/content/climate.html.

⁷lbid.

⁸U.S. Environmental Protection Agency, "Global Warming-Emissions. Retrieved July 6, 2006, from http://yosemite.epa.gov/oar/globalwarming.nsf/content/emissions.html.

⁹Hansen, James E., "Dangerous Anthropogenic Interference: A Discussion of Humanity's Faustian Climate Bargain and the Payments Coming Due", Presentation on October 26, 2004, in the Distinguished Public Lecture Series at the Department of Physics and Astronomy, University of Iowa. Retrieved July 14, 2006, from www.physics.uiowa.edu/lecture_series/dai_complete.pdf.

¹⁰A.L. Westerling, et al., "Warming and Earlier Spring Increases Western U.S. Forest Wildfire Activity", Scripps Institute of Oceanography, University of California, July 6, 2006. Retrieved July 7, 2006, from http://www.sciencemag.org/sciencexpress/recent.dtl.

7.5 days to 37.1 days when compared with the averages for the period 1970-1986. The study says that it is unclear whether the longer and more intense fire seasons are the result of greenhouse gas-induced global warming or an unusual natural fluctuation. According to the study, however, projections indicate warmer springs and summers in coming decades for the western United States.

THE KYOTO PROTOCOLS

The Working Group 1 of the IPCC, sponsored by the World Meteorological Organization and the United Nations Environment Programme, conducted data collection and analysis of global warming. Its final report, published in 1990, served as the basis for the 1997 Kyoto Protocol. The protocol established emission reduction targets for this century. The goal is to reduce emissions of greenhouse gases by at least 5% below 1990 levels during the period 2008-2012. Developed countries (e.g., the European Union, Japan, the United Kingdom, United States agreed to reduce emissions by more than 5%, while Russia agreed to reduce emissions to 1990 levels. Some countries were allowed to increase emissions. If target reductions are not met, future reductions presumably would have to be much greater.

ON THE OTHER HAND

Gerald Marsh has prepared a global warming primer¹⁵ "to help the reader determine whether our understanding of the Earth's climate is adequate to predict the long term effects of carbon dioxide released as a result of the continued burning of fossil fuels." His goal is to put climate change in historical perspective and to evaluate the consequences. He reminds us of the worry in the 1970s that the Earth was slipping into a new ice age, given the cooling trend that began in 1945, particularly at the Arctic Circle.

Marsh compares historical variations in temperature with variations that occurred in the 20th century. According to Marsh, the Medieval warm period (1000 AD to 1400 AD) was about 0.7° C. warmer than the beginning of the 20th century. The cooling period from 1400 to 1900 included the Little Ice

¹¹Gerald E. Marsh, "A Global Warming Primer", The National Center for Public Policy Research, No. 420, July 2002. Retrieved July 6, 2006, from http://www.nationalcenter.org/NPA420.pdf.

Age (1500 to 1700), during which temperatures were about 0.7° C cooler. The period 1700 to 1900 was about 0.3° C cooler. Between 1000 and 1900 the total variation in temperature has been about 1.5° C. Again, according to Marsh, over the last 10,000 years temperatures have varied within a range of 2° C. Between 1860 and 1990, temperatures (both cooling and warming periods) were within the range of $+0.6^{\circ}$ C.

Even with increased concentrations of carbon dioxide, Marsh maintains that water vapor is responsible for most of the contribution of greenhouse gases to the greenhouse effect. Estimates for the contribution of water vapor to the greenhouse effect range from about 60% to 90%, under various scenarios, while the contribution of carbon dioxide and other greenhouse gases range from about 10% to 36%.

Marsh also says that many researchers believe that increased solar activity may be responsible for at least half of the global warming over the last century. He also says that transitions from glacial to interglacial periods are not driven by increases in carbon dioxide concentration in the atmosphere, but rather carbon dioxide levels increase some 400 to 1,000 years after the transition, consistent with carbon dioxide releases from the oceans.

Studies have been conducted that conclude that glacial advances and retreats are attributable to changes in solar activity¹⁶ or that show that coastal ice losses from Greenland and Antarctica have been offset by ice gain in the interior. Others think that warming in Greenland is caused by slow, recurring changes in the Atlantic Ocean.¹⁷

ADMONITION

Passions run deep in the global warming debate. Bill Gray (the inspiration for this article) says global warming "is one of the greatest hoaxes ever perpetrated on the American people". Joel Achenbach, who quoted Gray, goes on to say that Gray is "howling in a maelstrom." Achenbach doesn't have much use for skeptics--who live "on a parallel Earth"--of human-induced global warming. Critics of global warming say scientists may overstate results (aided and abetted by the media) to keep research money flowing in. Proponents accuse the federal government of stifling government officials from speaking openly about global warming. Articles are written about the validity of the scientific consensus of

¹²Alan S. Manne and Richard G. Richels, "The Kyoto Protocol: A Cost-Effective Strategy for Meeting Environmental Objectives?", July 27, 1998, p. 2. Retrieved July 19, 2006, from http://www.oecd.org/dataoecd/38/53/1923159.pdf.

¹³In 2001, the United States withdrew from the Kyoto Protocol.

¹⁴National Atmospheric Emissions Inventory, Kyoto Protocol. Retrieved July 19, 2006, from http://www.naei.org.uk/actiondetail.php?action_id=11.

¹⁵Marsh, op. cit., pp 1-18.

 $^{^{16}\}text{Common}$ Sense and Wonder, "Global Warming: Some Inconvenient Glaciers", discusses a study of glaciers in the Andes Mountains. Retrieved July 6, 2006, from http://commonsensewonder.com/?p=729.

¹⁷A discussion of Greenland and Antarctica is contained in an article written by Jason Lee Steorts, "Snow Job: The truth about the great overhyped glacier melt", National Review, June 5, 2006.

¹⁸Joel Achenbach, "The Tempest", Washingtonpost.com, May 28, 2006. Retrieved July 12, 2006, from http://www.washingtonpost.com/wp-dyn/content/article/2006/05/23/AR2006052301305.html.

one side or the other, and they question the credentials of those who disagree with a particular side. References to studies on global warming often are careful to mention that the study has been peer-reviewed. Not much doubt about the position of the people at Earth on Fire.

In a way, I am reminded of the debate between the proponents of the Steady State theory of the origin of the universe and the proponents of the Big Bang theory. That debate also could bring out the worst in people. In his book "Big Bang: The Origin of the Universe", Simon Singh relates the story of one astronomer publicly embarrassing another. Martin Ryle conducted a survey of the distribution of radio galaxies, the results of which supported the Big Bang theory. Plotting revenge for a slight he suffered 10 years earlier, Ryle invited Fred Hoyle, a Steady State guy, to a press conference. Hoyle assumed that Ryle's announcement of the study results would lend support to the Steady State theory. Little did Hoyle realize he was being set up. George Gamow wrote a poem about the incident called "The Steady State Is Out of Date."

The brouhaha over the origin of the universe certainly does

not involve the public policy implications of global warming. Other than philosophical or theological considerations, most of us probably lead our lives not much concerned about the origin of the universe. In "A Study in Scarlet", Sherlock Holmes tells Dr. Watson that it doesn't "make a pennyworth of difference" to him whether the Earth goes around the sun or the moon.

We should be concerned about the global warming controversy because it could affect how we lead our lives, especially if policymakers get it wrong. Severe and unnecessary measures to curb greenhouse gas emissions could stifle worldwide economic development, or "business as usual" could result in chaotic climate changes that we are unprepared to deal with.

My understanding of the global warming controversy is still rudimentary, but it is a controversy worth looking into by all of us. The effort will involve more work than relying on our favorite media commentator, news magazine, or journal of opinion.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
August	2006					
		1	2	3	4	5
6	7	8	9	10	11 EQC Agency Oversight subcom- mittee, Ennis Public School lunchroom, Ennis, MT, 9 a.m.	12
13	14	15	16	17 PEPB subcommittee, 8 a.m. Local Government subcommittee Education and Local Government Committee	18 PEPB subcommittee, 8 a.m. Local Government subcommittee Education and Local Government Committee	19
20	21	22	23	24	25	26
27	28	29	30	31 Law and Justice Committee tentative		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Septem	nber 2006					
					1	2
3	4	5	6	7 Energy and Telecommunications Committee, Room 137	8 Revenue and Transportation Com- mittee, Room 137	9
10	11 State Administration and Veterans' Affairs Committee Economic Affairs Committee Environmental Quality Council	12 Economic Affairs Committee Environmental Quality Council Children, Families, Health, and Human Services Committee,	13 Children, Families, Health, and Human Services Committee, Room 137	14	15 Legislative Council	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

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